

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8893 OF 2005

Union of India....	...		Petitioner
V/s			
Mr.Jude E.D'souza, Pune.....			Respondent.

Mr.T.J. Pandian, Adv. for the petitioner.

Mr.G.S.Walia, for Respdts.

CORAM: V.G. PALSHIKAR,
Ag.C.J

AND
SMT.NISHITA MHATRE,
J.

12.1.2006.

PC:

By this petition the Union of India has challenged the order passed by the Central Administrative Tribunal by which the respondent was directed to have the promotional post after taking into consideration his services rendered in another division which he lost for the purposes of seniority only.

2. The Administrative Tribunal relying on the judgment of the Supreme Court of India in the case of **Union of India & Anr. V/s V.N.Bhat,** 2004 SCC (L & S) 167 held that the rule which contemplates loss of seniority also stipulates loss of that length of service for the purposes of calculating the eligibility for promotion. That being the ratio of the Supreme Court Judgment no error can be found with the order of the Tribunal.

3. It was also contended that the Tribunal though relying on this judgment of the Supreme Court did not factually consider the rule as it stands. The Rule is not held to be illegal or *ultra vires* for any reasons. In our opinion, this contention need not deter us from rejecting the petition as the similar rule has already been read down by the Supreme Court of India in the aforesaid judgment. Hence petition is dismissed.